

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION
OPIATE LITIGATION

MDL No. 2804

This document relates to:

Case No. 17-MD-2804

ALL CASES

Judge Dan Aaron Polster

**PURDUE’S NOTICE OF CLARIFICATION AND CARVE OUT REGARDING THE
POTENTIAL ESTABLISHMENT OF A COMMON BENEFIT FUND**

Purdue Pharma L.P., Purdue Pharma Inc., and The Purdue Frederick Company (together, “Purdue”), through undersigned counsel, hereby seek to clarify that, to the extent this Court enters any order establishing a Common Benefit Fund, such an order would not apply to Purdue and its affiliated debtors¹ (collectively, the “Debtors”) and Purdue’s Bankruptcy Proceeding.

On January 28, 2020, the Plaintiffs’ Executive Committee (“PEC”) filed an Amended Motion for Entry of Order Establishing Common Benefit Fund (Doc. 3112). Without taking a position as to the merits of the PEC’s Motion, Purdue respectfully submits this Notice to clarify that by agreement of the PEC and the express language of a proposed Order below, that the Motion and proposed Order do not apply to Purdue because, among other reasons, litigation against Purdue and its affiliated debtors is currently stayed pursuant to the Bankruptcy Code and a preliminary injunction issued by the Bankruptcy Court. *See* Sixth Amended Order Pursuant to 11 U.S.C. § 105(a) Granting Motion for a Preliminary Injunction at 6-8, *Purdue Pharma L.P. v.*

¹ The Debtors in the Purdue bankruptcy case are: Purdue Pharma L.P., Purdue Pharma Inc., Purdue Transdermal Technologies L.P., Purdue Pharma Manufacturing L.P., Purdue Pharmaceuticals L.P., Imbrium Therapeutics L.P., Adlon Therapeutics L.P., Greenfield BioVentures L.P., Seven Seas Hill Corp., Ophir Green Corp., Purdue Pharma of Puerto Rico, Avrio Health L.P., Purdue Pharmaceutical Products L.P., Purdue Neuroscience Company, Nayatt Cove Lifescience Inc., Button Land L.P., Rhodes Associates L.P., Paul Land Inc., Quidnick Land L.P., Rhodes Pharmaceuticals L.P., Rhodes Technologies, UDF L.P., SVC Pharma L.P. and SVC Pharma Inc.

Commonwealth of Massachusetts (In re Purdue Pharma L.P.), Adv. Pro. No. 19-08289-RDD, (Bankr. S.D.N.Y. Feb. 17, 2020), ECF No. 139. No action may be taken against the Debtors or their estates without first obtaining the necessary relief from the Bankruptcy Court. *Id.* In addition, any distributions or recoveries from Purdue's estates shall be determined by the Bankruptcy Court. Accordingly, for the avoidance of doubt, Purdue respectfully requests that if the Court enters any Order establishing a Common Benefit Fund, that Order should include the following language:

Notwithstanding any other provisions of this Order, nothing herein shall apply to or affect the chapter 11 cases jointly administered and docketed as *In re Purdue Pharma L.P., et al.*, No. 19-23649 (Bankr. S.D.N.Y.) and any associated adversary proceedings and appeals (together, the "**Purdue Bankruptcy**"), including, without limitation, any settlement, judgment, plan, or order entered or approved in relation to the Purdue Bankruptcy (a "**Purdue Bankruptcy Order**"). Without limiting the foregoing, no party or attorney shall be obligated by reason of this Order to pay or withhold any assessment on any settlement or other recovery of any kind obtained from or provided by the debtors ("**Debtors**") in the Purdue Bankruptcy or by such Debtors' owners or affiliates pursuant to a settlement or plan of reorganization or otherwise in the Purdue Bankruptcy.

The above proposed language is the result of negotiations between Purdue and representatives of the PEC. Purdue hereby represents that it has conferred with the PEC, and the PEC has consented to this Notice and the inclusion of the above-proposed language in any Order establishing a Common Benefit Fund.

The PEC, like all parties in the Purdue Bankruptcy, may file a motion seeking payment of fees and expenses in the Purdue Bankruptcy in accordance with the Bankruptcy Code; the PEC recognizes and agrees that all parties in that case, including the Debtors, have the right to object to such a motion.

Dated: March 9, 2020

Respectfully submitted,

/s/ Mark S. Cheffo

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CERTIFICATE OF SERVICE

I, Mark S. Cheffo, hereby certify that the foregoing document as served via the Court's ECF system to all counsel of record.

/s/ Mark S. Cheffo

Mark S. Cheffo